

Joseph Warren Bishop, Jr.*

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Today, in our mind's eye, we see Joe Bishop, across the years, in a variety of roles and callings, displaying his many-splendored gifts and enthusiasms. . . . [T]here are those of us who think of Joe at his desk—cranking out his essays, an enterprise that has helped to revive the essay as an art form. Joe was a modern Addison or Steele, writing in prose as clean and crisp as any we are likely ever to read; drawing on his enormous reserves of Roman history, the classics, law and literature; developing his own writing style from a marvelously eclectic set of building blocks—Plutarch, Macaulay, the King James Bible, and also H.L. Mencken, George Orwell, James Farrell, and Ring Lardner. And consider his range. One of his books, *Obiter Dictum*, includes essays entitled “Crime, Punishment, and the Limits of Vengeance;” “The Rise and Fall of Sancho Panza;” “Law, Liberty and Psychiatry;” “Jessica Mitford and the End of the Spock-Coffin Affair;” “Electronic Eavesdropping and the Public Interest;” “The Legal Status of Berlin.” Endlessly entertaining and refreshing, yet deeply serious (as perhaps all fine humor must be), prodding and tickling us, perhaps irritating us, to make us re-examine our favorite nostrums and the idols of the hour; “skinning” some folks, to use Joe’s expression, not because they were ignorant (in which case Joe might have suffered them) but because they really should have known better. “If here and there,” Joe wrote, “the reader finds remarks which are unkind, or even unfair, I can only plead that I wrote more in anger than in sorrow.” And the greatest scorn was reserved for those who despoiled the language, who wrote in doublespeak or mindless cant or orotund plush.

Joe did not park his commitment to the English language when he did his scholarship. His distinguished work in corporation law and on military justice (a field he virtually invented as an object of serious academic attention) is all the nobler for being written with his special grace.

In my own mind’s eye, I have other pictures of Joe. Soon after I reported for duty in the Army General Counsel’s office, in 1953—just after Joe had departed for private practice—I heard the story about the day that Joe, as Acting General Counsel, was handed a subpoena from Senator Joseph McCarthy and his counsel, Roy Cohn, demanding loyalty-

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security files on Army civilian employees. McCarthy and Cohn were poised to begin their assault on the Army for molly-coddling subversives, and Joe Bishop realized that McCarthy-style publicity could make it more difficult to produce a fair result for these employees. He prowled the Pentagon until he found an undersecretary empowered to respond to McCarthy, and convinced him, on the basis of some old Truman executive orders, to say no to the McCarthy-Cohn demand. Joe's role soon earned him what he later called a medal: a McCarthy-Cohn condemnation. Characteristically, Joe made light of it: "I am the only member of the Yale Law School faculty," he said, "who was ever denounced by Joe McCarthy, though many of my colleagues were far more deserving than I." The fact is that Joe fired the first salvo in a war that ultimately brought McCarthy down.

I wasn't at Joe's Wall Street law firm but I have an image of him there too. I can visualize the look of dismay on the faces of his elders as Joe, with his distaste for euphemism, referred to the firm's clients as "the customers."

After Joe entered practice, he returned to his old office each summer for reserve officer duty. In 1956 and 1957 our office was reviewing hundreds of old loyalty-security discharges to see which ones had been unfairly issued in the McCarthy era. Joe plunged into this often tedious work, when he could have been fanning himself somewhere—the way many summer reservists do in between drinks. The same concern with individual justice that had caused him to stand up to McCarthy led him to take on this chore. A number of young people who looked radical in college and who accordingly were given bad Army discharges owe their rehabilitation to Joe Bishop's vigilance.

What Joe did, he did not only because—despite his later quarrels with the ACLU—he was a dedicated civil libertarian, but also out of love. He showed extraordinary devotion to a congeries of human beings, many of whom, like the Army discharged, he would never meet. In a very special rank, of course, were Susan and the younger Joe—his love for them true and intense over 35 years of a strong and splendid marriage and 30 years of a close and affectionate relationship with his son. Indeed, his wife and son were the great blessings of Joe's life, and part of his joy was the certain knowledge that this love was so fully reciprocated.

Joe was also committed to the rest of us—to his students, for example, with whose successes and tribulations he identifies. I remember, one time, reading a student exam paper Joe had marked up in his marvelously clear handwriting; the student, probably not a genius, had excavated one of the subtler, stickier problems Joe had buried in the exam question, and had dealt with it handsomely. Joe—impressed and proud and excited—had

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written in the margins a comment the student probably never saw. It simply said, with an exclamation point, "GOOD MAN!" Joe has also been devoted to colleagues and to friends, and to the Law School itself—as he told us so movingly, despite his weakened condition, at the retirement dinner a week ago Friday. Finally, there was love left over, lots of it, for the opposition. Joe was a loyal friend of men and women whose views and politics were on the other side of a wide ideological gulf, unbridgeable except in personal terms, but—in those terms—no gulf at all.

I search for a word that captures some of these images of Joe—the concern with fairness and justice, the gladiatorial flair, the honesty, the love, and the incredible courage in the presence of pain and the threat to life. And the word I come up with is gallantry. Gallantry even applies to Joe's irrepressible wit, for, as he would have been the first to investigate and report, the word comes to us from the Old French verb that means to "make merry."

As Joe goes now from this church to a hillside in Arlington, we salute him—not as a soldier, though he was that, too—but as I think he would like best to be known, and indeed as we knew him and will always remember him: a good and gallant man.

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